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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IBRAHIMA MBODJI,)	Case No. 08cv0517-JLS (NLS)
)	A98-807-641
Petitioner,)	
)	
vs.)	NOTICE OF RECENT, CONTROLLING
)	NINTH CIRCUIT DECISIONS
)	AND
MICHAEL CHERTOFF, Secretary of)	SUGGESTED SUPPLEMENTAL BRIEFING
Homeland Security, et al.,)	
)	
Respondents.)	

On July 25, 2008, the Ninth Circuit issued its decision in Prieto-Romero v. Clark, -- F.3d --, 2008 WL 2853396 (9th Cir. July 25, 2008), holding that Zadvydas^{1/} and Nadarajah^{2/} do not apply where the only obstacle to removal is a pending petition for review. Id. at *7 (“Although his removal has certainly been delayed by his pursuit of judicial review of his administratively final removal order, he is not stuck in a “removable-but-unremovable limbo,” as the petitioners in Zadvydas were”). See also Casas-Castrillon v. D.H.S., -- F.3d --, 2008 WL 2902026 at *5 (9th Cir. July 25, 2008) (“Although Casas’ nearly seven-year detention certainly qualifies as prolonged by any measure, we hold that the government retains authority to detain him under § 1226(a) because Casas

^{1/} Zadvydas v. Davis, 533 U.S. 678 (2001).

^{2/} Nadarajah v. Gonzales, 443 F.3d 1069 (9th Cir. 2006).

1 faces a significant likelihood of removal to Colombia once his judicial and administrative review
2 process is complete”).

3 In addition, the Ninth Circuit held in Prieto that, because Prieto had already been provided
4 with ordinary bond review by an Immigration Judge (“IJ”), he was not entitled to a so-called Tijani
5 bond hearing (in which the burden of persuasion lies with the Government to prove flight risk and/or
6 danger to the community). See Prieto at *10 (citing Tijani v. Willis, 430 F.3d 1241 (9th Cir. 2005)).
7 As explained in the Government’s Return, at a September 7, 2006 bond hearing, the IJ lowered
8 Mbodji’s \$10,000 bond to \$7500, and Mbodji waived further appeal to the Board of Immigration
9 Appeals (“BIA”). [Ex. 22.]

10 Therefore, since it appears that Mbodji’s Petition may have been rendered moot by the Prieto
11 and Casas decisions, the Government proposes that the Court order Mbodji to show cause why the
12 instant Petition should not be dismissed or that the Court otherwise order supplemental briefing.

13 DATED: August 13, 2008

14 Respectfully submitted,

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17 *s/ Samuel W. Bettwy*

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